

2755. Misbranding of Brandenfels' Scalp and Hair Treatment. U. S. v. 43 Bottles, etc. (F. D. C. No. 21914. Sample Nos. 39009-H, 39010-H.)

LIBEL FILED: December 4, 1946, Eastern District of Michigan; amended libel filed May 3, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about November 7, 1946, by Carl Brandenfels, from St. Helens, Oreg.

PRODUCT: 43 16-ounce bottles and 43 8-ounce bottles of *Brandenfels' Scalp and Hair Treatment* at Detroit, Mich. Examination of the 16-ounce bottles of the product showed that the product consisted essentially of about $\frac{1}{4}$ gram of sulfanilamide in each 100 cc., water, and cornstarch, and that the product in the 8-ounce bottles consisted essentially of a perfumed emulsion of oil in water.

LABEL, IN PART: "Brandenfels' Scalp and Hair Treatment Formula A * * * Contents: 16 Ounces [or "Formula B * * * Contents: 8 Ounces"]."

NATURE OF CHARGE: Misbranding, Section 502 (a), the label statements "Scalp and Hair Treatment" and "The Hair Farmer" were false and misleading since they represented and suggested that the articles when used as directed were effective in promoting the growth of hair, whereas the articles were not effective for such purposes.

Further misbranding, Section 502 (f) (1), the labeling of the articles failed to bear adequate directions for use by reason of its failure to state all of the conditions for which the articles were intended, namely, growing hair in bald areas, curing dandruff, and stopping falling hair from continuing to fall out, as well as promoting the growth of hair; and, further, the labeling of the articles failed to bear adequate directions for use in the conditions, namely, growing hair in bald areas, curing dandruff, stopping falling hair from continuing to fall out, and promoting the growth of hair, for which they were prescribed, recommended, and suggested in their labeling and in their advertising disseminated and sponsored by and on behalf of their manufacturer and packer.

DISPOSITION: Carl Brandenfels, Inc., appeared as claimant and filed an answer denying the allegations of the libel. Thereafter, pursuant to stipulation by the parties, the case was removed for trial to the Western District of Washington on December 22, 1947. On March 16, 1949, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered destroyed.

DRUG ACTIONABLE BECAUSE OF THE PRESENCE OF A NONCERTIFIED COAL-TAR COLOR*

2756. Adulteration of Meth-O-Sol and alleged misbranding of Benz-Cal-Cin. U. S. v. Crescent-Kelvan Co., Jeremiah T. Roach, and George Duke Lambert. Pleas of not guilty. Tried to the jury. Verdict of guilty. Fine of \$1.00 against company; each individual fined \$500 and placed on probation for 2 years. Judgment of conviction reversed upon appeal and case retried upon pleas of not guilty. Count 2 dismissed and verdict of guilty returned on count 1. Fine of \$1 against company, \$100 against defendant Roach, and \$150 against defendant Lambert.

*See also No. 2766.